

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY LYNN NORWOOD,

Plaintiff,

No. CIV S-03-2554 GEB GGH P

vs.

EDWARD ALAMEIDA, JR., et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. This action proceeds on an amended complaint, filed on April 26, 2004, to which defendants filed an answer on January 7, 2005. On June 7, 2005, plaintiff filed a motion to file an amended complaint, along with a proposed second amended complaint. On June 30, 2005, this court ordered a response from defendants.

In their July 19, 2005 response, defendants submitted a statement of non-opposition to the filing of the second amended complaint because in it plaintiff alleges that, for three of the four periods for which plaintiff claims to have been deprived of exercise for extended periods in violation of the Eighth Amendment, Cheryl Pliler was serving as warden, not defendant Mike Knowles. Plaintiff's June 7, 2005 motion for leave to file a second amended complaint is granted and this court will direct service upon the newly named defendant, Cheryl Pliler, of the second amended complaint once plaintiff has returned the appropriate documents.

1 In addition, noting that defendants have filed no opposition to plaintiff's request to exceed the
2 25-interrogatory limit set forth by Fed. R. Civ. P. 33, filed on June 29, 2005, the court will grant
3 plaintiff permission to propound upon defendants interrogatories 26 through 44 of set one and
4 interrogatories 1 through 22 of set two, pursuant to Fed. R. Civ. P. 26(b)(2).

5 Accordingly, IT IS ORDERED that:

6 1. Plaintiff's June 7, 2005 motion for leave to file a second amended complaint,
7 not opposed by defendants, is granted and this action now proceeds on the second amended
8 complaint filed on June 7, 2005;

9 2. Service is appropriate for the following additional defendant: Cheryl Pliler;

10 3. The Clerk of the Court shall send plaintiff one USM-285 form, one summons,
11 an instruction sheet and a copy of the second amended complaint filed June 7, 2005.

12 4. Within thirty days from the date of this order, plaintiff shall complete the
13 attached Notice of Submission of Documents and submit the following documents to the court:

14 a. The completed Notice of Submission of Documents;

15 b. One completed summons;

16 c. One completed USM-285 form for the defendant listed in number 2
17 above; and

18 d. Two copies of the endorsed second amended complaint filed on June 7,
19 2005.

20 5. Plaintiff need not attempt service on defendant and need not request waiver of
21 service. Upon receipt of the above-described documents, the court will direct the United States
22 Marshal to serve the above-named defendant pursuant to Federal Rule of Civil Procedure 4
23 without payment of costs.

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1 6. Pursuant to Fed. R. Civ. P. 26(b)(2), the court grants plaintiff's June 29, 2005
2 request for leave to propound upon defendants interrogatories 26 through 44 in set one and
3 interrogatories 1 through 22 in set two, which are in excess of the 25-interrogatory limit set by
4 Fed. R. Civ. P. 33.

5 7. In light of the above, the court vacates the deadlines set forth in the May 17,
6 2005 scheduling order; the parties are granted until October 21, 2005 to conduct discovery and
7 file any motion to compel discovery; all pretrial motions, except motions to compel discovery,
8 shall be filed on or before December 23, 2005; plaintiff must file and serve his pretrial statement
9 and any motion to obtain attendance of witnesses on or before April 7, 2006; defendants shall file
10 their pretrial statement on or before April 21, 2006; pretrial conference on the file before the
11 undersigned is set for April 28, 2006; this matter is set for trial on August 15, 2006 at 9:00 a.m.
12 before the Honorable Garland E. Burrell.

13 DATED: 8/3/05

/s/ Gregory G. Hollows

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15 GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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